

PETER C. HARVEY  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, New Jersey 07102

FILED

December 11, 2003

NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS

By: Kathy Stroh Mendoza  
Deputy Attorney General  
Tel: 973-648-2972

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE LICENSE OF

FERNANDO C. RODRIGUEZ, M.D.  
LICENSE NO: MA 49443

TO PRACTICE MEDICINE AND SURGERY  
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER OF  
VOLUNTARY SURRENDER  
OF LICENSE WITHOUT  
PREJUDICE

This matter was opened to the State Board of Medical Examiners upon the filing of an Order to Show Cause and Verified Complaint, on December 1, 2003 seeking the temporary suspension of the medical license of Fernando C. Rodriguez, M.D. ("Respondent"). On or about July 23, 2003, Respondent was indicted in the Superior Court of New Jersey, Law Division, (Criminal) Somerset County, Indictment No. 03-07-00426-1 on 6 counts, charging Respondent with possession of a weapon for an unlawful purpose, second degree; unlawful possession of a weapon, 3rd degree, and prohibited device, 4th degree, contrary to N.J.S.A. 2C:39-3, -4 and -5 and N.J.S.A. 2C:58-4. The Respondent being desirous of resolving this matter on an interim

LAPS

New Jersey is An Equal Opportunity Employer - Printed on Recycled Paper and Recyclable

CERTIFIED TRUE COPY

basis, and the Board having found the within disposition adequately protective of the public health, safety and welfare,

IT IS ON THIS 9<sup>th</sup> DAY OF Dec. , 2003

ORDERED:

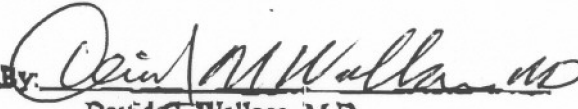
1. Respondent, Fernando C. Rodriguez, M.D., is hereby granted leave and shall immediately surrender his license to practice medicine and surgery in the State of New Jersey without prejudice, pending the final resolution of all criminal charges pending against him, effective upon filing of this Order.
2. Upon proof of final resolution of all pending criminal charges against him, Respondent is granted leave to petition the Board for relief from the Order of Voluntary Surrender of License.
3. Respondent shall return his original New Jersey license and current biennial registration to the New Jersey State Board of Medical Examiners, P.O. Box 183, Trenton, New Jersey 08625-0183, no later than December 31, 2003.
4. Respondent shall return his original CDS registration to the New Jersey State Board of Medical Examiners, P.O. Box 183, Trenton, New Jersey 08625-0183, no later than December 31, 2003.
5. Respondent shall advise the DEA of this Order no later than December 31, 2003.
6. Respondent shall comply with the "Directives Applicable to Any Medical Board Licensee who is Suspended, Revoked, or whose Surrender of License has been Accepted," which is attached hereto and made a part hereof.

7. The parties hereby stipulate that entry of this Order is without prejudice to further action by the Attorney General, the Board or other law enforcement entities resulting from Respondent's conduct.

8. Respondent hereby agrees that the Attorney General may amend the Verified Complaint by December 12, 2003 to add Count V regarding the issuance of controlled dangerous substances (CDS) prescriptions.

9. Respondent shall file an Answer to the Verified Complaint in this matter with the New Jersey State Board of Medical Examiners by December 15, 2003.

NEW JERSEY STATE BOARD OF  
MEDICAL EXAMINERS

By:   
David C. Wallace, M.D.  
President *M. Qu*

I have read and understood the within  
Order and agree to be bound by its terms.  
Consent is hereby given to the Board to  
enter this Order.

  
Fernando Rodriguez, M.D.

Consented to as to form.

  
Henry Furst, Esq.

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE  
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE  
HAS BEEN ACCEPTED**

**APPROVED BY THE BOARD ON MAY 10,2000**

All **licensees** who **are** the **subject** of a disciplinary order of the **Board** are **required** to provide the information required **on** the addendum to **these** directives. **The** information provided **will be** maintained separately and **will not be** part of the **public** document filed **with** the Board. **Failure** to provide **the** information required may result in further disciplinary action for failing to cooperate with the **Board**, **as** required by **N.J.A.C. 13:45C-1 et seq.** Paragraphs 1 through 4 **below shall apply when a** license is **suspended** or revoked or **permanently** surrendered, **with** or without prejudice. Paragraph 5 **applies** to licensees who are the subject of an **order** which, while permitting **continued** practice, contains a probation or monitoring requirement.

**1. Document Return and Agency Notification**

The licensee **shall** promptly forward to the Board **office** at Post Office **Box** 183, **140** East Front Street, **2nd** floor, Trenton, **New Jersey** 08625-0183, **the** original **license**, current biennial registration **and**, if applicable, the original **CDS** registration. In addition, if **the** licensee **holds** a Drug Enforcement **Agency (DEA)** registration, **he** or she **shall** promptly **advise the DEA** of **the** licensure action. (With **respect** to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of **the documents previously** surrendered to the Board. In addition, at the conclusion of the term, the **licensee** should contact the **DEA** to advise of the resumption of practice **and** to ascertain the impact of that change upon his/her **DEA** registration.)

**2. Practice Cessation**

The licensee **shall cease** and **desist** from **engaging** in the practice of medicine **in this** State. **This** prohibition not only **bars** a **licensee** from rendering professional services, but **also** from providing an opinion **as** to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee **need** not affirmatively **advise** patients or others of the revocation, suspension or surrender, **the** licensee **must** truthfully disclose his/her licensure status in response to **inquiry**.) The disciplined **licensee** is also prohibited from occupying, **sharing** or using office space in which another licensee **provides** health care services. The disciplined **licensee** may **contract for**, accept payment from another licensee for or rent a fair market value office premises and/or equipment. In **no case** may the disciplined licensee authorize, allow or condone the use of his/her provider **number by** any health care practice or any other licensee or health care provider. (In situations **where** the licensee has **been suspended** for less than one year, the licensee may accept payment from another professional **who** is **using** his/her office during the period that the licensee is **suspended**, for the payment of salaries for office staff employed at the time of the **Board** action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must **remove** signs and **take** affirmative action to stop **advertisements** by which his/her eligibility to practice is represented. The licensee must also **take steps** to remove his/her name from professional listings, telephone directories, professional stationery, or **billings**. If the licensee's name is utilized in a group practice title, it shall **be** deleted. **Prescription pads** bearing the licensee's name shall **be destroyed**. A destruction report form obtained from the Office of Drug Control (973-504-6558) must **be** filed. If no other licensee is providing **services** at the location, all medications must **be removed and** returned to the manufacturer, if **possible, destroyed** or safeguarded. (In **situations where** a license has been suspended for **less** than one year, **prescription pads and medications need not be destroyed but must be secured** in a **locked place** for safekeeping.)

### **3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies**

A licensee shall not charge, receive or **share** in any **fee** for **professional services** rendered by him/herself or others **while barred from engaging** in the professional practice. The licensee may **be** compensated for the reasonable value of services lawfully **rendered and disbursements** incurred on a **patient's behalf** prior to the effective date of the **Board** action.

A licensee who is a **shareholder** in a professional service corporation organized to **engage** in the **professional** practice, whose license is **revoked, surrendered or suspended** for a term of **one (1) year or more** shall **be deemed to be** disqualified from the **practice** within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A **disqualified** licensee shall divest him/herself of all financial interest in the **professional service** corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee **who is** a member of a **limited liability company** organized pursuant to N.J.S.A. 42:1-44, shall **divest** him/herself of **all** financial interest. Such divestiture shall occur within 90 days following **the the** entry of the Order rendering the licensee **disqualified** to participate in the **applicable form of ownership**. Upon divestiture, a **licensee** shall forward to the Board a copy of documentation **forwarded** to the **Secretary** of State, Commercial Reporting Division, demonstrating that the interest has **been** terminated. If the licensee is the **sole** shareholder in a **professional service corporation, the corporation must be dissolved** within 90 days of the **licensee's** disqualification.

### **4. Medical Records**

If, **as** a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the **three (3) month** period following the effective date of **the** disciplinary order, a **message will be** delivered to **patients** calling the former office **premises**, advising where records may **be** obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) **assuming** custody of **the** records. The same information shall **also be** disseminated **by** means of a notice **to be published** at least once per month for three (3) months in a **newspaper** of

general circulation in the geographic vicinity in which the practice was conducted, At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

## **5. Probation/Monitoring Conditions**

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

NJ License # \_\_\_\_\_

### ADDENDUM

Any licensee **who is** the subject of an **order** of the Board suspending, revoking or otherwise conditioning **the license, shall** provide **the following** information at the time that the order is signed, if it **is** entered **by** consent, **or** immediately after service of a fully executed order entered after a hearing. The information required here is **necessary** for the Board to fulfill its reporting obligations:

Social Security Number<sup>1</sup>: \_\_\_\_\_

List the **Name and Address** of any and all Health Care Facilities with which **you** are affiliated:

---

---

---

---

List the Names and **Address** of any and all Health Maintenance Organizations with which you are affiliated:

---

---

---

---

Provide **the** names and **addresses** of **every** person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing **this** information).

---

---

---

<sup>1</sup> Pursuant to 45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or **federal taxpayer** identification number in **order** to discharge its responsibility to **report** adverse actions to the National Practitioner Data Bank and the HIP Data Bank.

**NOTICE OF REPORTING PRACTICES OF BOARD**  
**REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of ~~the~~ New Jersey State Board of Medical Examiners **are available for public inspection**. Should any inquiry be ~~made~~ concerning the status of a licensee, ~~the inquirer will be informed~~ of the existence of the order and a copy will be **provided** if requested. All evidentiary hearings, ~~proceedings on~~ motions or other applications which are conducted as **public** hearings ~~and the record~~, including the transcript and documents marked in evidence, **are available** for public inspection, upon request.

Pursuant to 45 CFR **Subtitle A 60.8**, the Board ~~is~~ **obligated** to **report** to the **National Practitioners Data Bank** **any action** relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) **Which revokes or suspends (or otherwise restricts) a license,**
- (2) **Which censures, reprimands or places on probation,**
- (3) **Under which a license is surrendered.**

Pursuant to 45 CFR **Section 61.7**, the Board is **obligated** to report to the Healthcare Integrity and Protection (HIP) Data Bank, **any** formal or official actions, such as **revocation** or suspension of a license (and the length of any such suspension), reprimand, censure or **probation** or **any other** loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or **any** other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-193 3, if the Board refuses to **issue, suspends, revokes or** otherwise places **conditions on a license** or permit, it is **obligated** to notify **each** licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all **disciplinary orders are provided** to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.